

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
DANVILLE DIVISION

TONY RAY COBBS, SR., )  
Plaintiff, ) 4:11CV00011  
v. )  
BOTTLING GROUP, LLC, )  
Defendant. ) **ORDER**  
By: Jackson L. Kiser  
Senior United States District Judge

Before me is Defendant Bottling Group, LLC's Motion to Dismiss or, in the Alternative, for Summary Judgment. Mot. to Dismiss, May 6, 2011, ECF No. 6. Soon after the Motion was filed, the Clerk's Office sent a Roseboro Notice to Tony Ray Cobbs, Sr., the pro se Plaintiff. Roseboro Notice, May 9, 2011, ECF No. 8. Both parties have briefed their respective positions on the Motion. Def.'s Br. in Supp., May 6, 2011, ECF No. 7; Pl.'s Resp., May 17, 2011, ECF No. 13; Def.'s Reply, June 8, 2011, ECF No. 17. On July 12<sup>th</sup>, 2011, the Court heard oral argument. After careful consideration, the Court **DENIES** the Defendant's Motion to Dismiss because, as explained in the accompanying Memorandum Opinion, the Plaintiff's claims are not res judicata.

Entered this 15<sup>th</sup> day of July, 2011.

s/Jackson L. Kiser  
Senior United States District Judge